

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN SECTION

HELDER PEIXOTO,

Plaintiff,

v.

EXPERIAN, CRAIG SMITH.,

Defendants.

Case No. 04-CV-10436 (JLT)

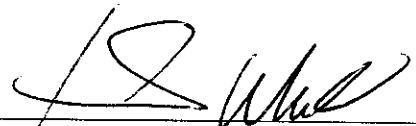
**DEFENDANT CRAIG SMITH'S
MOTION TO DISMISS
COMPLAINT OF PLAINTIFF
HELDER PEIXOTO**

NOW COMES Defendant Craig Smith who, by his undersigned counsel, moves this Court, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for an order dismissing, with prejudice, Plaintiff Helder Peixoto's ("Plaintiff") Complaint in its entirety as to Craig Smith for failure to state a claim upon which relief can be granted.

Plaintiff cannot maintain any claim against Craig Smith because the federal Fair Credit Reporting Act does not apply to corporate officers such as Craig Smith, but only to the consumer credit reporting agencies themselves. Further, because Plaintiff has not alleged that Craig Smith published the purported defamatory statements, Plaintiff's defamation claim should be dismissed as against Craig Smith.

Dated: March 26, 2004

BOURGEOIS, DRESSER, WHITE & BEARD

By: 
Robert S. White (BBO#552229)
4 Dix Street
Worcester, MA 01609
(508) 798-8801

- and, of counsel -

Nathan J. Zolik
JONES DAY
222 East 41st Street
New York, NY 10017
(212) 326-3939

Attorneys for Defendants
EXPERIAN INFORMATION SOLUTIONS,
INC., & CRAIG SMITH

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2004, I caused a true and correct copy of the foregoing Defendant Craig Smith's Motion to Dismiss upon the Plaintiff Pro Se, Helder Peixoto, by Federal Express to his address at 161 Webster Avenue, Cambridge, MA 02141

A handwritten signature in black ink, appearing to read 'R. White', is written over a horizontal line.

Robert S. White